

Robert V. Prongay (SBN 270796)
rprongay@glancylaw.com
Pavithra Rajesh (SBN 323055)
prajesh@glancylaw.com
GLANCY PRONGAY & MURRAY LLP
1925 Century Park East, Suite 2100
Los Angeles, California 90067
Telephone: (310) 201-9150
Facsimile: (310) 201-9160

Benjamin I. Sachs-Michaels
bsachs@glancylaw.com
GLANCY PRONGAY & MURRAY LLP
745 Fifth Avenue, 5th Floor
New York, NY 10151
Telephone: (212) 935-7400

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

TRUNG NGUYEN, Derivatively on Behalf of
Nominal Defendant BERKELEY LIGHTS,
INC.,

Plaintiff.

V.

ERIC D. HOBBS, SHAUN M. HOLT, KURT
WOOD, SARAH BOYCE, JOHN
CHIMINSKI, IGOR KHANDROS,
GREGORY LUCIER, MICHAEL MARKS,
MICHAEL MORITZ, ELIZABETH
NELSON, and JAMES ROTHMAN.

Defendants,

and

BERKELEY LIGHTS, INC.,

Nominal Defendant.

Case No. 4:22-cv-01693-HSG

**STIPULATION AND ORDER
VOLUNTARILY DISMISSING
ACTION PURSUANT TO FEDERAL
RULES OF CIVIL PROCEDURE 23.1
AND 41**

1 Plaintiff Trung Nguyen (“Plaintiff”); Defendants Eric D. Hobbs, Shaun M. Holt, Kurt
2 Wood, Sarah Boyce, John Chiminski, Igor Khandros, Gregory Lucier, Michael Marks, Michael
3 Moritz, Elizabeth Nelson, and James Rothman (“Individual Defendants”); and Nominal Defendant
4 Berkeley Lights, Inc. (l/k/a PhenomeX Inc.) (each a “Party,” and collectively the “Parties”), by
5 and through their undersigned counsel, hereby stipulate and agree as follows and jointly request
6 that the Court enter the Order accompanying this Stipulation.

7 WHEREAS, on March 16, 2022, Plaintiff commenced the above-captioned action
8 (“Action”), asserting claims derivatively on behalf of Berkeley Lights, Inc. (“Berkeley”) against
9 the Individual Defendants (ECF No. 1);

10 WHEREAS, on May 23, 2022, the Court granted the Parties’ stipulation to stay the Action
11 pending a ruling on the motion to dismiss the related securities class action captioned *Ng v.*
12 *Berkeley Lights, Inc., et al.*, No. 3:21-cv-09497 (N.D. Cal.) (ECF No. 20);

13 WHEREAS, in October 2023, Berkeley was acquired in an all-cash transaction by Bruker
14 Corporation, such that Berkeley’s shareholders before the acquisition are no longer shareholders
15 of the company;

16 WHEREAS, after due consideration of Plaintiff’s standing to pursue claims derivatively on
17 behalf of Berkeley in the wake of its acquisition, Plaintiff wishes to voluntarily dismiss the Action
18 pursuant to Rules 23.1(c) and 41(a) of the Federal Rules of Civil Procedure, without prejudice as
19 to Plaintiff, Nominal Defendant, and/or any other Berkeley shareholder;

20 WHEREAS, the Parties agree that the dismissal is not, and shall not be deemed to be, an
21 adjudication of the Action on the merits, and that each Party shall bear its own fees and costs
22 incurred in connection with the Action; and

23 WHEREAS, the Parties agree and respectfully submit that notice to shareholders of this
24 dismissal is unnecessary here because: (i) the dismissal is without prejudice to the ability of any
25 Berkeley shareholder, or Berkeley itself, to pursue the claims; (ii) there has been no settlement or
26 compromise of the Action; (iii) there has been no collusion among the Parties; and (iv) neither
27 Plaintiff nor his counsel has received or will receive directly or indirectly any consideration from
28 Defendants for the dismissal.

1 NOW, THEREFORE, the Parties hereby stipulate and agree, subject to the Court's
2 approval, as follows:

3 1. This Action shall be dismissed without prejudice as to Plaintiff, Berkeley, and/or
4 any other Berkeley shareholder.

5 2. The Parties shall bear their own fees and costs in connection with the Action.

6 DATED: February 23, 2024

GLANCY PRONGAY & MURRAY LLP

7 By: /s/ Pavithra Rajesh
8 Robert V. Prongay (SBN 270796)
9 Pavithra Rajesh (SBN 323055)
10 1925 Century Park East, Suite 2100
11 Los Angeles, CA 90067
12 Telephone: (310) 201-9150
Facsimile: (310) 201-9160
rprongay@glancylaw.com
prajesh@glancylaw.com

13 Benjamin I. Sachs-Michaels
14 745 Fifth Avenue, 5th Floor
New York, NY 10151
15 Telephone: (212) 935-7400
Facsimile: (212) 756-3630
16 bsachsmichaels@glancylaw.com

17 *Attorneys for Plaintiff*

18 DATED: February 23, 2024

MUNGER, TOLLES & OLSON LLP

19 By: /s/ Lauren C. Barnett
20 John W. Spiegel (SBN 78035)
21 Robert L. Dell Angelo (SBN 160409)
Lauren C. Barnett (SBN 304301)
22 350 S. Grand Ave., 50th Floor
Los Angeles, CA 90071
23 Telephone: (213) 683-9100
Facsimile: (213) 687-3702
john.spiegel@mto.com
robert.dellangelo@mto.com
lauren.barnett@mto.com

24 26 *Attorneys for Defendants and Nominal Defendant*
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28

1 Pursuant to Civil L.R. 5-1(i)(3), all signatories concur in filing this stipulation.

2 Dated: February 23, 2024

/s/ Pavithra Rajesh
Pavithra Rajesh

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4 PURSUANT TO STIPULATION, IT IS SO ORDERED.

5 Dated: 2/26/2024


6 Hon.. Haywood S. Gilliam, Jr.
United States District Judge
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